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Letter dated 30 December 2008 from the Permanent Representative of South Africa to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa for the period 2008 as endorsed by the members (see annex).

I would be grateful if the present letter and its annex were circulated as a document of the Security Council.

(*Signed*) Dumisani S. **Kumalo**
Ambassador and Permanent Representative
of the Republic of South Africa

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Annex

Report on the activities of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa for the period 2008

I. Introduction

1. The Ad Hoc Working Group on Conflict Prevention and Resolution in Africa was established by a note by the President of the Security Council (S/2002/207). The note, which delineated the composition, chairmanship, method of work and duration of the working group, also set out the mandate of the Ad Hoc Working Group as follows:

(a) To monitor the implementation of recommendations contained in presidential statement S/PRST/2002/2 and previous presidential statements and resolutions regarding conflict prevention and resolution in Africa;

(b) To propose recommendations on the enhancement of cooperation between the Security Council and the Economic and Social Council as well as with other United Nations agencies dealing with Africa;

(c) To examine, in particular, regional and cross-conflict issues that affect the Council's work on African conflict prevention and resolution;

(d) To propose recommendations to the Security Council to enhance cooperation in conflict prevention and resolution between the United Nations and regional (African Union) and subregional organizations.

2. By his note S/2007/771, the President of the Security Council conveyed the agreement of the Council that the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa, initially established on 1 March 2002 (see S/2002/207), should be extended for a period of one year, and thus would continue its work until 31 December 2008.

3. Subsequently, pursuant to a note by the President of the Security Council dated 3 January 2008 (S/2008/2), South Africa succeeded the Congo as Chair of the Ad Hoc Working Group. Dumisani S. Kumalo, Ambassador and Permanent Representative of South Africa, was elected as its Chairman for the period ending 31 December 2008.

4. This report reflects the activities of the Ad Hoc Working Group that were conducted during 2008, under the chairmanship of South Africa.

II. Activities conducted

A. Briefing by the Department of Political Affairs

5. On 21 January 2008, South Africa, in its capacity as Chairman of the Ad Hoc Working Group, represented the Security Council at a meeting in Addis Ababa of the African Union Peace and Security Council with non-African regional and international organizations.

6. On 24 January 2008, the Ad Hoc Working Group met to consult on its activities for 2008.

7. On 6 March 2008, the Ad Hoc Working Group met to hear a briefing by B. Lynn Pascoe, Under-Secretary-General for Political Affairs, on the proposal to strengthen the Department of Political Affairs. The briefing provided the Working Group with an opportunity to understand how the Department of Political Affairs sees its role in conflict prevention and resolution efforts and proposed steps to strengthen the Department.

8. Mr. Pascoe pointed out that the constraints facing the Department of Political Affairs were well documented in reports and evaluations that attest to an unsustainable trend of rising responsibilities and zero growth in resources. The result, he noted, was an overstretched political department that is unable to consistently perform the kind of analysis, diplomatic engagement and coordination required for successful preventive diplomacy.

9. Nonetheless, Mr. Pascoe observed that the Secretary-General still expects the Department of Political Affairs to be more active than before and to reduce the peacekeeping burden, which has become costly because of an increasing number of operations, including demanding operations such as the African Union-United Nations Hybrid Operation in Darfur (UNAMID).

10. The United Nations needed to become more effective not only at stabilizing conflict situations and dealing with their humanitarian side effects, but also at preventing and resolving them through political means. Conflict prevention and resolution are Charter responsibilities which we simply cannot fail to fulfil.

11. Given this state of affairs, Mr. Pascoe disclosed that a number of steps were being proposed to strengthen the Department of Political Affairs:

(a) Substantial and long overdue strengthening of the regional divisions of the Department of Political Affairs, along with some reorganization for greater efficiency;

(b) Establishment of an integrated policy, partnerships and mediation support division, with the objective of helping the Department of Political Affairs to be more systematic in carrying out mediation efforts and to increase the capacity of the Department to work on cross-cutting issues that affect peace and security;

(c) Strengthening of the Security Council Subsidiary Organs Branch and the Electoral Assistance Division;

(d) Creating posts to enhance Department of Political Affairs management, evaluation, and oversight and communications capacity, in support of the overall work of the Department.

12. The Chair thanked Mr. Pascoe on behalf of the members of the Ad Hoc Working Group and assured him of the support of the members in any way they felt they could assist the Department of Political Affairs in fulfilling its conflict prevention and conflict resolution duties, either in their respective national capacities or as members of the Security Council.

B. Meeting on the concept "responsibility to protect"

13. On 1 December 2008, the Ad Hoc Working Group convened an important substantive meeting, during which it addressed the concept of responsibility to protect. In proposing and convening the meeting, the Chair felt strongly that conflict prevention, a critical component of the responsibility to protect, was not being adequately addressed.

14. Furthermore, there were two other purposes for holding the meeting. The first was that the Secretary-General was expected to present his report on the responsibility to protect to the General Assembly early next year, which would then hold a debate on the report. Therefore, the Chair believed that the deliberations in the Working Group on the concept of responsibility to protect could contribute to that debate, whose objective, among others, is to arrive at a common understanding on issues that are set forth in paragraphs 138 and 139 of the 2005 World Summit Outcome (General Assembly resolution 60/1).

15. Second, there was a shared understanding that the concept of responsibility to protect was within the remit of the Ad Hoc Working Group. Therefore, it was critical that the meeting be understood within the context of the mandate of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa, which set forth to propose recommendations to the Security Council to enhance cooperation in conflict prevention and resolution, between the United Nations and regional (African Union) and subregional organizations. (See S/2002/207, sect. III (iv).)

16. The interactive meeting, which was well attended, provided a very useful glimpse into the national positions of Council members and experts in the field, on the facet of responsibility to protect related to non-military action. The meeting also served as a forum for the Council to begin a conversation aimed at articulating positions that recognized the equal importance of all the pillars of the responsibility to protect. The Chairman's summary of the meeting is contained in appendix I to the present annex.

C. Briefing by the Chairmen of the subsidiary bodies of the Security Council

17. As statutorily required, the Chair of the Ad Hoc Working Group on Conflict joined his colleagues and the various Chairs of the subsidiary organs, in briefing the Security Council at its 6043rd formal meeting held on 15 December 2008. The text of the Chair's briefing to the Council on the activities of the Ad Hoc Working Group for the year 2008 is contained in appendix II to the present annex.

III. Conclusion

18. It has been an honour for South Africa to serve on the Security Council over the past two years and to Chair the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa during its last year on the Council.

19. South Africa assumed the Chair of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa during the period 2008 because it believed that it could bring added value to that Council's work on the African dossier and

specifically because it felt that such a role would also strengthen the African agenda on peace, security and development. Our overall contribution to this Council was in line with the aims of the Working Group.

20. South Africa feels gratified that members of the Council responded positively to our efforts in the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa and that there is now a better understanding of the questions relating to peace and security in Africa and the role of conflict prevention.

21. As South Africa leaves the Council and the Ad Hoc Working Group on Conflict Prevention and Resolution, I wish to thank the Secretariat, especially the Secretary of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa, Oseloka Obaze, for the support we have received throughout the activities of the Working Group.

New York, 29 December 2008

(*Signed*) D. S. **Kumalo**
Permanent Representative
Chairman of the Ad Hoc Working Group
on Conflict Prevention and Resolution in Africa

Appendix I

Summary of the proceedings of the meeting on the responsibility to protect

Ambassador Dumisani S. Kumalo, Permanent Representative of South Africa to the United Nations and Chairman of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa

In his opening remarks, Ambassador Kumalo said that the meeting was being held for two reasons. First, the Secretary-General was expected to present his report on the responsibility to protect to the General Assembly early next year and the latter, in turn, would debate the report. It was his hope that the meeting would contribute to that debate. Second, the concept of the responsibility to protect fell within the mandate of the Ad Hoc Working Group, as conflict prevention was a critical aspect of the responsibility to protect. In that regard, he stressed that the responsibility to protect did not refer exclusively to military intervention and noted with concern that the transformation of the concept of the responsibility to protect into practice was slow.

Dr. Edward C. Luck, Special Adviser to the Secretary-General and Senior Vice-President and Director of Studies of the International Peace Institute

Dr. Luck recalled that the Secretary-General had made clear in his speech of 15 July in Berlin that the responsibility to protect was not "another name for humanitarian intervention". He noted that by taking an affirmative and respectful view of sovereignty, the concept sought to help States succeed, not just to react when they had failed. In that regard, he said, the Secretary-General had suggested that the responsibility to protect rested on three pillars: (1) the responsibility of the State to protect its own people; (2) the responsibility of the international community to assist a State in meeting its protection responsibilities; and (3) the responsibility of the international community to respond to the failure of a State to meet its protection responsibilities. He emphasized that the three pillars were mutually reinforcing, and that while preventive and assistance measures were much preferred, collective measures under Chapter VII of the Charter of the United Nations could not be ruled out. The "trick" was to get the balance right. Responding to the concept paper prepared by South Africa, Dr. Luck clarified that neither the 2005 World Summit Outcome nor the Secretary-General had used the term "intervention" to refer to the responsibility to protect, which was meant to support the State, not undermine it. While reiterating that the responsibility to protect was a "much broader and more nuanced" concept than humanitarian intervention, he was concerned that, at times, national Governments and intergovernmental bodies tended to narrow their options and thus failed to provide the necessary protection of affected populations. He suggested that the best way to discourage powerful States from abusing the responsibility to protect for unilateral purposes was for the international community to develop a clear framework for the implementation of the responsibility to protect in a collective and legal manner. Finally, he was of the view that individual States should collaborate more closely with the international community in order to "realize the promise" of the responsibility to protect.

Ambassador Lila Hanitra Ratsifandrihamanana, Permanent Observer of the African Union to the United Nations

Ambassador Ratsifandrihamanana underscored the importance of a non-military approach to implementing the concept of the responsibility to protect, while warning against possible intervention in weak States by more powerful States. She recalled that, well before the concept of the responsibility to protect had come into being, the African Union had declared in article 4 (h) of its Constitutive Act that it would intervene in a member State to protect human rights, good governance, etc. However, military intervention could be authorized only in "extreme" circumstances. At the same time, she opined that non-military measures related to the responsibility to protect could be applied in cases of natural disasters. Touching on specific issues in Africa, Ambassador Ratsifandrihamanana urged the international community to intensify its support for UNAMID so that the hybrid force could better protect civilians. While commending the international community for its role in addressing the crisis in Kenya earlier this year, she was concerned that few actions had been taken regarding the responsibility to protect in Somalia.

Ms. Nicola Reindorp, Director of Advocacy at the Global Centre on the Responsibility to Protect

Ms. Reindorp noted that all stakeholders at national, regional and international levels must act in order to turn the principles of the responsibility to protect into practice. However, the Security Council had a particular role in preventing mass atrocities. In that regard, she identified the following five aspects that the Council must work on: (1) the Council should be open to information from all sources indicating that people were at risk, so as to be prepared for early warning and early action; (2) the Council must be willing to take up all situations, whether or not they were on its agenda; (3) the Council must be willing to respond quickly before a situation would become catastrophic; (4) the Council should consider all options at its disposal, as words were not always sufficient and short-term coercive measures could save lives; and (5) the Council must distinguish States lacking the capability to protect from those that themselves were the perpetrator of atrocities, and put early and robust pressure on Governments. In conclusion, Ms. Reindorp stressed that the Council could not continue a "wait-and-see" policy. When preventive action had failed, the Council must show its political will to act. She warned that unless it changed its behaviour, the Council could expect to see more failures like those of the past.

Ambassador Giulio Terzi di Sant'Agata, Permanent Representative of Italy to the United Nations

Ambassador Terzi said that the responsibility to protect should be further developed and "enshrined in the Council's practice". A sovereign State must act in a responsible manner to ensure a stable political situation with respect for human rights and the rule of law. If a State did not have such capabilities, the international community should provide assistance. He encouraged the United Nations to better use the existing mechanisms, including through the Peacebuilding Commission and the Human Rights Council. In the meantime, Ambassador Terzi believed that the Secretary-General could play a key role, particularly with regard to early warning. He added that when a State proved unable or unwilling to protect its people, collective action by the Council under Chapter VII could be invoked.

Ambassador Jan Grauls, Permanent Representative of Belgium to the United Nations

Ambassador Grauls was pleased that the concept of the responsibility to protect seemed to be "less of a taboo" for the Council with the holding of the meeting. While recognizing the African roots of the concept of the responsibility to protect in the African Union's Constitutive Act, he noted that all too often Africa was also the theatre for the responsibility to protect situations. He stressed that it was time to operationalize the concept and, in that connection, he highlighted that the following elements must be considered regarding the implementation of the responsibility to protect: (a) emphasis must be placed on the need to prevent conflict and to strengthen national capacities to protect; (b) since conflict prevention and the responsibility to protect were different concepts, when tensions increased rapidly, the international community should act quickly; (c) steps must be taken to prevent post-conflict States from relapsing into conflict; and (d) combating impunity should be a "vital part of the responsibility to protect tool box".

Ambassador Jean-Maurice Ripert, Permanent Representative of France to the United Nations

Noting that a main objective of the responsibility to protect was to save lives and to ensure free access to the victims, Ambassador Ripert said that the international community should be in a position to intervene everywhere when a situation of concern had emerged. He believed that the responsibility to protect fully fell within the mandate of the Council and reminded participants that the responsibility to protect was not substituting with humanitarian assistance, which NGOs had been providing for many years. It was based on human rights whose grave violations could represent a threat to peace and security, allowing the Security Council to intervene. While stressing the importance of preventive action, he opined that prevention would often be more effective when backed by a credible threat of sanctions. Meanwhile, he underlined that the scope of the responsibility to protect was not limited and, in that regard, he suggested that the responsibility to protect could also apply to situations in connection with natural disasters. While acknowledging that natural disasters were not mentioned in the 2005 World Summit Outcome as a reason that would trigger the responsibility to protect, Ambassador Ripert explained that that was because, at that time, few had expected that such States as the Democratic People's Republic of Korea and "Burma" would prevent the international community from aiding populations in need. Finally, Ambassador Ripert stressed that Member States could not continue to advocate early warning and prevention without strengthening the Department of Political Affairs. Moreover, he was disappointed that the responsibility to protect had not been implemented as desired and attributed this failure to the division among Council members on the subject.

Steve Crawshaw, United Nations Advocacy Director at Human Rights Watch

Mr. Crawshaw stressed that while it was important to look at measures to prevent situations of mass atrocities, it was even more dismaying that the Security Council had repeatedly failed to act even in situations where mass atrocities were clearly ongoing. As examples he cited the situations in Darfur in 2003, where initially it had been very difficult to draw the attention of governments to the situation, even though mass atrocities were clearly being committed, as well as the current situation in the eastern Democratic Republic of the Congo. He stressed that the failure to act in ongoing situations of mass atrocities was unacceptable. In addition, he was wary

of diluting the concept of the responsibility to protect and held that while clearly military action was only one step in a continuum of possible actions, the use of military means to protect affected populations should not be excluded.

Burkina Faso

Burkina Faso stated that the responsibility to protect was primarily a "responsibility to prevent" and pointed to, inter alia, resolutions 1296 (2000) and 1674 (2006) on the protection of civilians in armed conflict, which stipulated that the deliberate targeting of civilian populations might constitute a threat to international peace and security. He held that the international community had the right and the duty to intervene in situations where a government failed to protect its population. He nevertheless warned that possible abuse of the concept had to be prevented. Noting an increase in the involvement of regional organizations in conflict situations in Africa, he stressed the need to bolster their capacity and he hailed the African Union for its leadership on prevention, particularly by including the principle of non-indifference in its Constitutive Act.

United Kingdom

Ambassador Pierce stressed that the responsibility to protect was a global concept and, pointing to the events in Srebrenica, underlined that atrocities had occurred on every continent. She held that the Security Council had not yet found a balance in the questions of when to intervene and when to protect the sovereignty of affected States. She challenged those Council members who tended to favour the protection of sovereignty to look back and determine if the protection of sovereignty in some situations had not led to atrocities that would have been preventable. She also held that the actual number of military interventions for humanitarian purposes was very small and that governments probably feared sanctions more than military actions. She asked who would intervene if the Security Council did not and, promising that her Government would keep an open mind, she asked all those sceptical of Security Council action to present alternatives. Emphasizing that the preventative aspect of the responsibility to protect deserved attention, she also wondered how to encourage governments to ask for preventative assistance. In conclusion, Ambassador Pierce stressed the need to strengthen United Nations policing capabilities, which would often have a greater role than troops to play in addressing break downs of law and order and human rights abuses.

Ms. Fabienne Hara, Vice-President of Multilateral Affairs at the International Crisis Group (ICG)

Ms. Hara emphasized that the concept of the responsibility to protect did not focus on the notion of intervention, but on the protection of the affected populations. She supported the previous speakers in that a focus on prevention was necessary and that military action should be the last resort. She expressed the hope that the next time mass atrocities were to take place, the international community would not ask whether action was required, but what action by whom and when. Pointing to the situation in the eastern Democratic Republic of the Congo, she emphasized that clearly not enough had been done to address the root causes of the conflict, as the situation in the Kivus had erupted four times over the last 12 years. She also noted that the Council had not responded to previous requests of the Department of Peacekeeping Operations for additional troops.

Mr. William R. Pace, Executive Director of the World Federalist Movement's Institute for Global Policy (WFM-IGP)

Mr. Pace pointed to his experience in the negotiations of the 2005 World Summit Outcome to support the notion that the responsibility to protect had not been a northern or western agenda. He held that the Security Council had a clear responsibility to prevent atrocities by early action and that it had the widest range of measures at its disposal. Nevertheless, he held that in order to make the doctrine of the responsibility to protect operational, it had to be taken up by all relevant bodies in the United Nations system. He stressed that his organization would hold States accountable for their actions and inactions on the responsibility to protect, but would also encourage regional organizations to take up the issue.

Ms. Joanna Weschler, Director of Research, Security Council Report

Ms. Weschler outlined the history of the concept of the responsibility to protect, which in her view came into Security Council discussions 15 years ago as the Council began to include protection tasks in the mandate of United Nations missions (e.g., UNPROFOR). In 1999, lessons learned from Rwanda and Yugoslavia represented important milestones for the concept and led to "soul searching" by the United Nations on how to prevent such mass atrocities in the future. The subsequent "hands-on approach" with which both the Council and the Secretary-General had addressed the situation in Timor-Leste was largely credited with convincing the Indonesian Government to allow an intervention. She pointed out that there had been a growth in protection mandates for peacekeeping operations from one in 1999 to six in 2006 and 2007. She held that history showed that the Security Council had a role in the protection of civilians and that while criticism was justified, the Council often did not get full credit for what it did.

Ambassador Dumisani S. Kumalo, Permanent Representative of South Africa to the United Nations

Ambassador Kumalo held that Africa was way ahead of other regions in recognizing the importance of the responsibility to protect, as that continent was keenly aware that it could not afford "another Rwanda". He underlined that during the negotiations at the 2005 World Summit, delegations from Africa had to convince delegations from other regions to include the concept in the Outcome. Stressing that the responsibility to protect must be applied equally, he expressed his frustration that the examples of situations involving the responsibility to protect mentioned at the meeting had not included Somalia. He held that such unequal application risked weakening the concept. He also warned that the idea of expanding the concept of the responsibility to protect to include natural disasters was "stretching it". He emphasized that the concept should encompass the whole continuum of available measures and should not focus on military intervention. In his view, those critical of the concept were under the impression that advocates were focusing on "where they can punish someone". He concluded that with the meeting, South Africa had hoped to get the Security Council to act. He had hoped that, faced with the criticism from NGOs, States would feel compelled to explain why they did not act in certain situations and he said that, as an African, he would be disappointed were the concept to lose credibility.

Dr. Edward C. Luck, Special Adviser to the Secretary-General and Senior Vice-President and Director of Studies of the International Peace Institute

Dr. Luck concurred with Ambassador Grauls in expressing the hope that the meeting would be the beginning of the end of the Security Council treating the responsibility to protect as taboo. He also agreed with the Belgian Ambassador's emphasis on the need to distinguish between conflict prevention and the prevention of mass atrocities, adding that it would be necessary for the actors involved to be able to ask the right kind of questions by mainstreaming the responsibility to protect. In that context, he noted that the Peacebuilding Commission seemed to be gravitating towards countries which had experienced mass atrocities, adding that since past experience continued to be one of the best predictors of future mass atrocities, the Commission had an important role to play in prevention. Responding to comments made by France, Dr. Luck stated that while the Security Council had a critical role to play in terms of the responsibility to protect, the Council's interactions with other United Nations organs were equally important. In that context, he pointed out that while the General Assembly should not try to restrict the Security Council's endeavours, it could play an important role in prevention, mediation, monitoring and investigation. He added that the Assembly could also invoke "Uniting for peace", should the Council be unable to act. On whether natural disasters should be included in the definition of the responsibility to protect, he stressed that in preparing the report of the Secretary-General on the responsibility to protect for the General Assembly, care was being taken to operate within the framework agreed by the Member States in the 2005 Summit Outcome, where natural disasters had not been included. Noting that some United Nations concepts had been "watered down" on their way through the system, he stressed the importance of keeping the concept of the responsibility to protect focused, adding, "We must not try to run before we can walk". Responding to the questions posed by Ambassador Pierce, Dr. Luck pointed out that neither the Council nor the General Assembly had been involved in Kenya earlier this year, but that the Secretary-General could do quite a lot with regard to early action. On the question of how the international community could encourage governments to ask for international assistance to fulfil their national responsibility to protect, he recalled previous positive experiences in Timor-Leste and Kenya.

Ambassador Lila Hanitra Ratsifandrihamanana, Permanent Observer of the African Union to the United Nations

Ambassador Ratsifandrihamanana thanked South Africa for having drawn attention to the case of Somalia, which she believed deserved heightened international attention, including from the Council. Noting that some speakers had emphasized the African leadership in terms of the responsibility to protect, she said that the African Union would assume that leadership role. She recalled that the African Union had already made an appeal for international assistance for the establishment of a system of early warning. Pointing out that the African Union was often the first outside force to be present in crisis situations, including in Darfur and Somalia, she stated that, owing to the limited resources of the African Union, that regional organization would continue its appeals to the Council to discuss ways of financing African peacekeeping efforts. On the situation in Darfur, Ambassador Ratsifandrihamanana expressed the hope that UNAMID could reach the target of 80 per cent deployment this year, arguing that the Sudanese Government should be encouraged to facilitate the deployment. She added that no African government would deliberately wish to massacre its own population, and held that the responsibility was shared by all actors involved. As for Somalia, she expressed the

hope of the African Union for the deployment of a United Nations stabilization force to be deployed with a view to facilitating the eventual deployment of a United Nations peacekeeping operation. She concluded by stressing that the responsibility to protect begins with development, combating poverty and ending all incitement to violence, which also conferred a certain responsibility on the media.

Ms. Nicola Reindorp, Director of Advocacy at the Global Centre on the Responsibility to Protect

Ms. Reindorp observed that just as it was important to distinguish between the responsibility to protect and humanitarian intervention, the responsibility to protect could not be reduced to a question of early humanitarian assistance. The concept of the responsibility to protect, she stressed, had been developed to specifically address the responsibility to protect against mass atrocities. Noting the general concurrence that the prevention of mass atrocities was substantively different from conflict prevention, she called on the Council to consider how that would translate into different measures to be used to address those situations. Urging the Council to acknowledge that the responsibility to protect belonged within the realm of the Security Council, she stressed that if Council members were serious about prevention, early action by the Security Council itself would be required. She added that the responsibility to protect entailed an appeal to the Council on behalf of the affected populations of all 192 Member States.

Indonesia

Stressing the importance of prevention, Mr. Soemirat advocated greater emphasis on the responsibility to protect by States rather than by the international community, adding that this would entail a greater focus on enhancing the capacity of Member States to protect their populations. Warning against a "grey area" in the definition of the responsibility to protect, he underlined that the responsibility to protect covered responses to war crimes, genocide and crimes against humanity, and not to natural disasters. Indonesia stressed the need for the Council to apply the concept of the responsibility to protect consistently, and said that, as the Council had many tools at its disposal, it should carefully consider any action it might take.

United States of America

Mr. McBride asked what the implications would be for the discussion of the responsibility to protect in other United Nations organs, if the Council were to be actively seized of the situations in Kenya and Zimbabwe. At the same time, noting that his delegation was working on a draft resolution on piracy in Somalia, he wondered which responsibility to protect tools the Council might apply to address the situation in that country.

Costa Rica

Mr. Gonzalez stressed that the responsibility to protect constitutes not only an evolution of the concept of sovereignty, but also an evolution of the concept of security where multilateralism has a more prominent place and the focus is on the security of human beings. He said that now was the time to move the discussion on the responsibility to protect from definition to implementation and that engagement from all actors at all levels is a fundamental element. Emphasizing the importance of a non-punitive and non-coercive approach, he argued that while military intervention could only take place as a last resort, the three pillars of the responsibility to protect should be equally and seriously considered depending of the circumstances. Costa Rica noted the importance of having a clear division of

labour between the various United Nations organs, adding that the Security Council was not the only United Nations organ with a role to play in prevention. In addition, he said that the Secretary-General's Special Adviser on the Prevention of Genocide also had an important role to play with regard to early warning and quick response. Costa Rica also highlighted the importance of the fight against impunity and, in this regard, Mr. Gonzalez emphasized the role of the International Criminal Court and deplored that resolution 1593 (2005) had yet to be implemented. In conclusion, Costa Rica stressed the importance of the Council being able and willing to use all means at its disposal to implement the norm of the responsibility to protect.

Netherlands

Mr. Kempeneers observed that in terms of the responsibility to protect, the Council had important roles to play in prevention, intervention (when necessary) and reconstruction, and expressed the hope that the discussion at the meeting could remove some of the misunderstandings surrounding this concept. While noting that military measures were only of little weight within the scope of the responsibility to protect, he held that the possibility of coercive measures was an integral part of the moral imperative of the responsibility to protect. At the same time, he stressed that capacity-building must be a key component of the operationalization of the responsibility to protect, as must the deterrent role, which could be played by the International Criminal Court.

Dr. Edward C. Luck, Special Adviser to the Secretary-General and Senior Vice-President and Director of Studies of the International Peace Institute

Responding to the questions posed by the United States, Dr. Luck noted that while Article 12 of the Charter of the United Nations did entail constraints on General Assembly action on items of which the Council is seized, the Council could delegate authority to the General Assembly on such items. He noted that the first UNEF operation in Sinai had been established following referral by the Council to the General Assembly under "Uniting for peace". In addition, he noted that, according to the Charter, Council seizure of a specific item would not inhibit the Secretary-General, although he would carefully coordinate with the Council on such issues. Dr. Luck suggested that Article 99 of the Charter could encompass the responsibility to protect, as the Secretary-General could inform the Council of any pertinent issues in this regard. Turning to the United States question regarding Somalia, he wished that the responsibility to protect could offer a "magic formula", but acknowledged that the responsibility to protect was more effective at the very early stages of a crisis and in its aftermath. At the same time, he pointed out that the responsibility to protect had the advantage of reminding the international community of ongoing crisis situations, that might not constitute a direct threat to international peace and security or draw the attention of major powers, but where the humanitarian toll of the crisis would clearly warrant international action. Taking note of the statement by Costa Rica that military intervention could only take place as a last resort, Dr. Luck observed that while the use of force was the last preferred option, it should not be viewed as the last resort in a time sequence. In that context, he recalled that preventive use of force had been applied with government consent in both the former Yugoslav Republic of Macedonia and Sierra Leone. He stressed that the international community could not urge early action while postponing military action until the very last minute. He concluded by noting that sometimes countries did need international assistance to strengthen their own sovereignty.

Ambassador Dumisani S. Kumalo, Permanent Representative of South Africa to the United Nations and Chairman of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa

In conclusion, Ambassador Kumalo expressed the hope that the meeting had been only the beginning of a conversation that would be continued by his successor as Chairman of the Working Group. Stressing the equal importance of all the pillars of the responsibility to protect, he expressed the hope that the Security Council would find a way to contribute to the General Assembly debate on the issue the following year.

Annex II

Briefing by Ambassador D. S. Kumalo, Chair of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa to the Security Council on 15 December 2008 (see S/PV.6043)

South Africa assumed the Chair of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa because we felt that this would strengthen the African agenda on peace, security and development. Our overall contribution to this Council was in line with the aims of the Working Group. During our presidency of the Council, we highlighted the need to strengthen the working relationship between the African Union and the United Nations, in particular the Security Council. We hosted thematic debates that brought several heads of State and Government from Africa to the Security Council. Right now, we look forward to a report of the African Union-United Nations panel headed by former Prime Minister Romano Prodi of Italy, which will make concrete proposals on how the United Nations can support the work of the African Union with predictable and sustainable resources.

Regarding the programme of the Working Group, we held four meetings, including a session at which the Under-Secretary-General for Political Affairs, Mr. B. Lynn Pascoe, briefed the Working Group on the reform of the Department of Political Affairs. The briefing provided the Working Group with an opportunity to understand how the Department of Political Affairs sees its role in conflict prevention and resolution efforts.

Another important meeting took place on 1 December 2008 and addressed the concept of responsibility to protect. There were two main purposes for holding the meeting. The first was that the Secretary-General is expected to present his report on the responsibility to protect to the General Assembly early next year, which will then hold a debate on that report. Our deliberations in the Working Group on the concept of responsibility to protect could contribute to that debate, whose objective is, among others, to arrive at a common understanding on issues that are set forth in paragraphs 138 and 139 of the 2005 World Summit Outcome. Second, it was our understanding that the concept of responsibility to protect falls within the mandate of the Working Group. Therefore, it was critical that the meeting be understood within the context of the mandate of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa, which set forth to propose recommendations to the Security Council to enhance cooperation in conflict prevention and resolution, between the United Nations and regional and subregional organizations. (See S/2002/207, sect. III (iv).)

Finally, I would like to express my deep appreciation for the cooperation of the members of the Working Group on Conflict Prevention and Resolution in Africa in our endeavour to contribute to the successful implementation of the mandate of the Working Group. I also wish to thank the Secretariat for its support throughout the activities of the Working Group.